IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 745 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SUNIL ANANTRAY RAVAL

Versus

KHAMBHALIYA NAGAR PALIKA

Appearance:

1. Special Civil Application No. 745 of 1989

MR PM THAKKAR for Petitioner No. 1-19

MR MANOJ N POPAT for Respondent No. 1

CORAM : MR.JUSTICE N.G.NANDI

Date of decision: 27/07/2001

ORAL JUDGEMENT

1. Heard learned Advocte Ms. Vinita Vinayak for the petitioner and Mr. Manoj Popat for the respondent.

2. It is stated by Ms. Vinita Vinayak, learned

advocate for the petitioner that the petitioner no. 19, Trivedi Sunil Sashikantbhai has instructed that he is not interested in proceeding further with this petition and qua him this petition be withdrawn. This petition qua petitioner no. 19, Trivedi Sunil Sashikantbhai is disposed of as withdrawn.

3. It is further stated by Ms. Vinita Vinayak that petitioner no. 9, Narottam Govindji had died pending the present writ petition and this petition as regard this petitioner no. 9, Narottam Govindji does not survive.

4. In this writ petition under Article 226 of the Constitution of India petitioners seeks to challenge the action of the respondent Khambhaliya, Nagar Palika seeking to terminate the petitioners' services styling the petitioners nos. 1 to 8 as the temporary employees and petitioner no. 9 to 19 as the daily wager employees. It is contented that all the petitioners have completed 240 days in the calender year and are entitled to be absorbed as the regular employees of the respondent Municipality.

5. Ms. Vinita Vinayak has produced letter dated 18.01.2001 addressed by one of the petitioners to his Counsel containing information regarding the initial date of joining of service and the date of the absorbtion of the petitioners as a regular employee in the respondent-Municipality. The information contained in the said letter is not disputed by the learned Counsel for the petitioner; that all the petitioners except petitioner no. 9 and petitioner no. 19, have been absorbed as the regular employee in the respondent Municipality with effect from the date given in the aforesaid letter dated 18.01.2001. This would mean that prayer 'A' in the petition does not survive and prayer 'B' would survive only to the extent of treating the petitioners in the regular employment on a completion of 240 days as daily/temporoary workers. The prayer 'C' would also not survive for consideration.

6. As far as the relief of treating the petitioners in regular employment with effect from completion of 240 days as temporary/daily wages for the purpose of pensionary/temporary benefits are concerned, it may be seen that the petitioners right on completion of 240 days would be as per Section 25(F) of the Industrial Disputes Act nothing further, under the circumstances regularisation not being a legal right, this part of the relief cannot be granted and therefore rejected.

7. In view of the above, so far as the relief of the regularisation of the services of the petitioners nos. 1 to 8 and 10 to 18 are concerned the same does not survive and therefore, no order is necessitated. Other relief for the aforestated is rejected. The petition is disposed of accordingly. Rule is discharged. No orders as to costs.

(N.G. NANDI,J.)

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